

Exhibit 5

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POST OFFICE BOX 19110 320039
ALEXANDRIA, VIRGINIA 22320

ALAN ROSENBLUM
alan@rosenblumllc.com

April 8, 2008

FED EX
David Lambert
871 Peat Mt. Rd.
Harrisonburg, VA 22802

NY COURT Affirmation and Dismissal

Dear David:

I am resending this to you to sign and return. As we discussed, I am enclosing an Affirmation, which you need to read, sign and return to me in the FED EX envelope provided.

It explains why you do not have a recognized enforceable right to pursue a claim against Rexall. We only included you because we first tried to file in Florida, which perhaps might have recognized a husband's claim. That case was dismissed with direction to refile in Virginia, which definitely does not recognize a husband's claim. The Judge in New York is after me to get you off of the pleadings, but we need to include your acknowledgment that you should be removed because you have no enforceable claim in this case. So your prompt attention is needed.

I also sent this to William Helsley, as you indicated you wanted to talk to him. Please feel free to do so.

His contact information is :

William Helsley, Esq.
235 Newman Ave.
Harrisonburg, VA 22801
540- 434- 3163; Fax 540 437 1240
Whelsley@ntelos.net

Call me if you have any questions. But please don't ignore this 3rd request.

Very truly yours,

David Rosenblum



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X :

:

X :

IN RE: EPHEDRA PRODUCTS LIABILITY LITIGATION : 04 MD 1598 (JSR)

:

PERTAINS TO: *Sonja Lambert, et. al. v Rexall Sundown, Inc., et .al.* 06CV 05067

**AFFIRMATION OF DAVID LAMBERT
CONSENT TO DISMISSAL OF HIS CLAIM**

COMES NOW the Plaintiff **DAVID LAMBERT**, who declares and affirms as follows:

1. I am David Lambert, who is a named Plaintiff in the case of *Sonja Lambert et. al. v Rexall Sundown, Inc., et. al., 06CV 05067*, now pending in the United States District Court for the Southern District of New York (*In RE Ephedra Liability Litigation 04 MD 1598*).
2. I have at all times pertinent to this suit, been a resident of Virginia, and now reside at 2784 Fairview Road, Mt. Crawford, VA 22841.
3. I am now divorced from the Plaintiff Sonja Lambert by Decree of Divorce entered June 15, 2007, in the Prince William Circuit Court.
4. I understand that this suit, when originally filed in Florida, (Palm Beach County CA 02-10321AF), included my claim for loss of consortium. That case was dismissed pursuant to Florida Rule 1.061(a) and the doctrine of Forum Nonconviens by order dated December 9, 2005 for refileing in Virginia.
5. The case was refiled in Virginia (Prince William Circuit Court CL-68976) on April 6, 2006 and removed to U.S District Court for The Eastern District of Virginia and thereafter transferred to the MDL proceedings of this Court.

6. I understand that under the applicable Virginia law, an action for loss of consortium is derivative of the spouse's action for personal injuries, and both are governed by the law of the place where the personal injuries were suffered. *Pringle v. Sloan*, 4 Cir. L952272, 44 Va. Cir. 516, 517 (1996). As Sonja Lambert's injuries were suffered in Virginia, the conflicts law of Virginia would therefore look to Virginia tort law to determine my claim for loss of consortium. In Virginia, a husband's common-law right of action for loss of consortium has been abrogated by statute. Va. Code Ann. § 55-36; *Pringle*, 44 Va. Cir. at 516-17.

7. The pertinent Virginia statute reads as follows:

§ 55-36. Contracts of, and suits by and against, married women. —* * * In an action by a married woman to recover for a personal injury inflicted on her she may recover the entire damage sustained including the personal injury and expenses arising out of the injury, whether chargeable to her or her husband, notwithstanding the husband may be entitled to the benefit of her services about domestic affairs and consortium, * * * ; and no action for such injury, expenses or loss of services or consortium shall be maintained by the husband. (Code 1919, § 5134; 1932, p. 21; 1950, p. 460.)

8. Moreover, because of our divorce, there could no longer be any right to assert such a claim.

9. I understand and agree that I should be removed from this case; that I have no enforceable claim or rights to any proceeds resulting from a verdict or settlement of Sonja Lambert's claim. I agree to an Order Dismissing me as a named Plaintiff.

I HAVE READ THIS AFFIRMATION AND DISCUSSED ITS CONTENTS WITH COUNSEL. I AM SIGNING THIS VOLUNTARILY AND ON MY OWN FREE WILL. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE COMMONWEALTH OF VIRGINIA and THE UNITED STATES OF AMERICA, THAT THE FOREGOING AFFIRMATION IS TRUE AND CORRECT.

Executed this _____ day of _____, 2008.

David Lambert

From: Origin ID: LVLA (703)548-9002
David Rosenblum
ROSENBLUM and ROSENBLUM, LLC
228 SOUTH WASHINGTON STREET
SUITE 300
ALEXANDRIA, VA 22314



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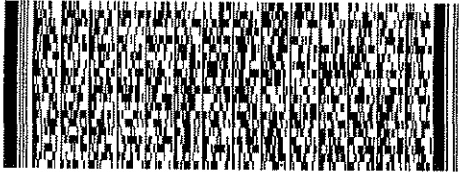
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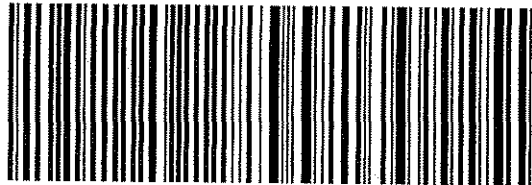
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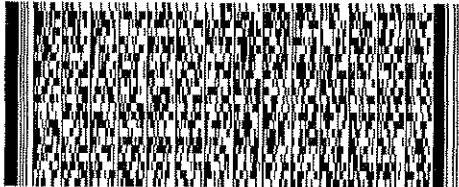
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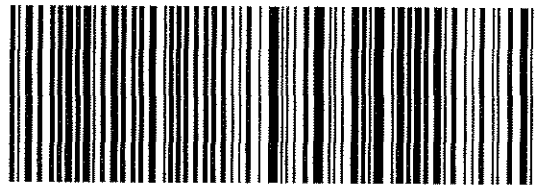
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Delivery date	Apr 9, 2008 12:55 PM	Service type	Standard Envelope
		Weight	0.5 lbs.
Status	Delivered		
Signature image available	<u>No</u>		

Date/Time	Activity	Location	Details
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	8:59 AM At local FedEx facility	HARRISONBURG, VA	
Apr 8, 2008	9:49 PM At dest sort facility	DULLES, VA	
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MICHAEL WAYNE KIRBY
871 PEAKE MOUNTAIN RD
HARRISONBURG, VA 22802-0061

SSN - 231-27-xxxx
Dates - May 04 - Oct 07
Phone - (540) 867-9658
Phone Name - KIRBY MICHAEL